

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

PL-I
29106

FILE: B-215336; B-215336.2 **DATE:** August 17, 1984

MATTER OF: Storage Technology Corporation;
Falcon Systems, Inc.

DIGEST:

1. Where agency will award on the basis of cost and other factors, and other factors are scored in terms of their maximum dollar impact on the overall evaluation, agency has adequately stated the relative importance of the factors to be considered, since offerors are adequately apprised of the cost/technical tradeoffs which will be made.
2. Contracting agencies have discretion to determine whether significant technical difference between proposals justifies award to higher priced offeror or whether award to lower priced offeror is more advantageous to the government. The mere fact that technical factors are scored in terms of dollars does not limit this discretion, since agency retains flexibility to determine whether award to a higher or lower cost offeror is justified in view of dollar benefit or dollar assessment of each proposal.
3. Allegation that customer survey of actual users of proposed equipment to assess equipment reliability will not provide accurate information and is designed to unfairly favor one offeror is without merit, since equipment reliability is a proper factor which may be considered and agency's approach is objective and reasonable and does not confer an unfair advantage to any offeror.

Storage Technology Corporation (STC) and Falcon Systems, Inc. (Falcon), protest any award under request for proposals (RFP) No. 101-6-84 issued by the Veterans Administration (VA) to replace the triplex computer system at the Austin VA Data Processing Center. Both protesters

029783

complain that the RFP does not adequately specify the relative importance of cost and technical factors identified in the RFP. In addition, both protesters contend that the VA's proposed reliability survey is arbitrary and does not accurately measure equipment reliability. Also, STC argues that the RFP does not comply with the General Services Administration (GSA) Delegation of Procurement Authority (DPA) and that the RFP unduly favors IBM equipment.

We deny the protests.

The RFP was issued to replace government-owned and leased equipment with plug-compatible equipment capable of meeting the VA's data processing needs at the Austin facility over an 8-year systems life. In accordance with the original DPA granted by GSA, the RFP initially advised offerors that cost would be given a weight of at least 70 percent compared to technical considerations. Due to the VA's stated need to obtain equipment of superior quality, the VA requested GSA to amend its DPA and to permit the VA to give greater weight to technical factors. After discussing the matter with the VA, GSA revised the DPA and removed the 70/30 cost/technical evaluation scheme. The VA was allowed to consider technical factors provided that those factors could be directly quantified as a dollar benefit and were used to adjust the evaluated systems life costs (ESLC). Subsequently, an additional modification was made and the VA was not required to adjust each offeror's ESLC by the dollar credits or assessment derived from the technical evaluation. As finally stated, the DPA permitted the VA to consider "other technical factors, sometimes referred to as 'subjective' criteria, provided any value to the government can be reasonably quantified as to dollar benefit."

Section IV.3 of the RFP, "Evaluation of Proposals," set forth the VA's evaluation scheme. As revised by amendment 8, that provision states that award will be "made to that responsible offeror whose proposal is in the best interests of the VA, cost and other factors considered." Section H.1.3 of the RFP lists the additional factors that the VA would consider. These factors were ranked in order of importance based on their maximum dollar impact on ESLC and listed in descending order of importance as follows:

- Peripheral Equipment Reliability
- Vendor Support
- Conversion to MVS/XA
- Floor Space

Preventive Maintenance
Training Facilities
MVS Paging/Swapping Subsystem

For each of these factors, the VA assigned a dollar credit or assessment commensurate with the cost savings/avoidance or added cost to be incurred by the VA with each proposal system. The VA indicates that the technical evaluation "dollars" are not intended to be precise indicators of actual value, but, rather, like a point score, will serve as a guide to the selecting official. The VA states that the dollar figures arrived at for these additional factors will be compared to the ESLC to determine which proposal is in the VA's best interests and award will be made on that basis.

EVALUATION CRITERIA

Both protesters argue that the VA should be required to more precisely state the manner in which the dollar credit or assessments computed for the additional technical factors will be compared to each offeror's ESLC. Falcon and STC complain that the RFP provides insufficient guidance as to whether a vendor should propose more costly equipment in order to obtain a higher dollar score for the technical factors or whether a vendor should propose a low cost offer.

The VA contends that it is clear from the RFP that cost is the most important factor in the award decision. The VA argues that cost to the government, as represented by the price and the cost impact of the technical factors, would be of primary concern in deciding which offer is in the government's best interests. The VA indicates that the additional technical factors are clearly ranked in descending order of importance and, by specifying the maximum dollar impact for each factor, offerors are apprised of their relative importance in the overall evaluation. The VA argues that the technical "dollars" are similar to point scores, are not precise indicators of actual value, and, like a point total, will serve as a guide for intelligent decisionmaking by the VA's selection officials.

It is a fundamental principle of federal procurement law that solicitations must be drafted to inform all offerors in clear and unambiguous terms what is required of them in order that they can compete on an equal basis. Macro Systems, Inc., B-208540.2, Jan. 24, 1983, 83-1 C.P.D. ¶ 79. The use of the term "cost and other factors" not only establishes that the source selection official cannot

disregard price, but also that price alone is not determinative since the reference to other factors includes consideration of those factors which are listed. Timberland-McCullough, Inc., B-202662; B-203656, Mar. 10, 1982, 82-1 C.P.D. ¶ 222.

Based on the record, we find that the RFP adequately defines the cost/technical tradeoffs which the VA will make in evaluating competing proposals. We agree with the protesters that the solicitation contains no explicit statement of the relative importance of cost and technical factors. However, we think it clear that the RFP established that cost was of primary importance. With respect to the technical factors, not only were they listed in order of importance, but the VA also specified the maximum dollar impact of each technical factor. In our view, the VA, by specifying the maximum cost impact of each technical evaluation factor, has advised offerors of their relative weights and of the relative importance the VA attached to each factor. Accordingly, we find no basis to object to the evaluation scheme in the RFP.

Furthermore, the mere fact that the VA has scored the technical factors in terms of their dollar impact does not limit the discretion normally retained by selection officials in negotiated procurements. Consequently, we find no basis to require the VA to rigidly adhere to a mechanical award formula by simply adding the technical dollars to an offeror's ESLC and awarding on that basis and, in fact, have recommended that contracting agencies refrain from using such a scheme. Harrison Systems Ltd., B-212675, May 25, 1984, 84-1 C.P.D. ¶ 572. In selecting the awardee, the VA retains discretion to determine whether award to a higher or lower cost offeror is justified in view of the dollar benefit or dollar assessment of each proposal and in making this determination, the VA may ultimately decide that a technical dollar credit may not justify an additional dollar in an offeror's cost proposal. This determination is in the source selection authority's discretion and in no way differs from that which the VA would be required to make if the technical factors were point-scored and then examined to determine whether any point differential represents an actual significant difference in technical merit.

Finally, in this regard, we find no merit to STC's allegation that the VA's evaluation scheme violates the DPA granted by GSA. The final amendment to the DPA permits the

evaluation of "subjective" technical factors and specifically removed the requirement that the dollar credit or assessment arrived at in the technical evaluation be added to an offeror's ESLC. The DPA clearly does not require the VA to award on the basis of the combined lowest cost nor did it specify the relative importance that was to be accorded the technical factors. In our view, the VA's decision to award on the basis of "cost and other factors considered" is consistent with this grant of authority.

VA's Reliability Survey

The RFP listed peripheral equipment reliability as the most important technical factor that the VA would consider. Based on an analysis of the costs to the VA of this equipment performing at levels other than that specified in the RFP, the VA determined to apply an evaluation credit or assessment of approximately \$8 million to each offeror's proposal. The amount of any one credit or assessment is based upon the VA's evaluation of the actual performance reliability of each offeror's proposed equipment. This information will be collected through a site survey of actual users and, in accordance with a specified formula, each proposal will be assigned an assessment or credit based on the performance deviations which are found.

The RFP requires that a minimum of four customer sites and a maximum of 25 be provided by each offeror. Offerors select the customer sites using a bull's eye approach, i.e., all sites within a specific geographic area of the Austin facility are exhausted before proceeding to the next specified area. The VA indicates that this method was chosen to preclude an offeror from preselecting only those sites at which total satisfaction has been achieved and to eliminate any potential bias in the statistical sampling. The RFP provides, however, that an offeror may submit alternate sites if statistical anomalies are encountered during the survey and that those customers which do not wish to cooperate need not be included in the survey.

Customers at each site will be requested to provide LOGREC information--data which is routinely recorded by the operating system itself. From that data file, the VA will obtain information concerning the "permanent" errors requiring repair which were recorded at each facility. "Permanent errors" are defined as equipment failures which require repair by a systems engineer. The VA states that permanent errors clearly impact on system downtime and

equipment reliability and, for each permanent error, a fixed value of downtime hours will be applied equally to all offerors. By applying a fixed value of downtime hours for each permanent error, the VA indicates that the difference between maintenance support and contract reliability requirements between the various sites can be normalized. In addition, the VA states that additional normalization factors will be utilized to remove potential biases resulting from differences in the number of operational hours at the sites, differences in the number of devices at the sites, differences in equipment configuration and differences in the length of time that the equipment had completed acceptance testing. The VA states that its survey was developed by its computer and statistical experts and, in their view, represents an acceptable method of evaluating equipment reliability, is statistically sound and is free from bias.

Both Falcon and STC argue that the customer survey is defective. The protesters contend that the information the VA intends to collect places an undue burden on its customers and will not be sufficiently accurate to justify awarding up to \$8 million in credits or assessments. It is argued that permanent errors may be recorded by the operating system for many reasons, not all of which relate to reliability and, as a result, the survey will not produce an accurate picture of an offeror's equipment reliability. In addition, it is alleged that the survey is biased towards IBM since IBM's equipment has been in service for a longer period of time and it alone has "settled" to its expected level of performance. Finally, both protesters contend that the survey is unnecessary and that there are other means of ensuring equipment reliability.

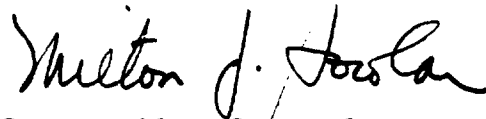
It is well established that the determination of the government's minimum needs and the best method of accommodating those needs are primarily the responsibility of the contracting activities. Rack Engineering Company, B-208615, Mar. 10, 1983, 83-1 C.P.D. ¶ 242. A procuring agency's technical conclusions in this regard are entitled to great weight and will be accepted unless there is a clear showing that the conclusions are arbitrary. Industrial Acoustics Company, Inc., et al., B-194517, Feb. 19, 1980, 80-1 C.P.D. ¶ 139.

In our view, equipment reliability is a proper factor which the VA may consider. We do not find the fact that some customers may be reluctant to participate to be

prejudicial since offerors do not have to include those that refuse to cooperate with the VA in the survey. Furthermore, despite the difficulties identified by the protesters in the VA's survey technique, we conclude that the VA has adopted an objective approach to this task, which we cannot find unreasonable. See e.g. Remington Rand Corporation; SCM Corporation; Olivetti Corporation, B-204084, B-204085 et al., May 3, 1982, 82-1 C.P.D. ¶ 408. The record does not show that the customer survey will not provide the VA with valid information concerning the reliability of the proposed equipment. Although the protesters suggest that more accurate and less burdensome alternatives to the survey are available, it is not the function of this Office to conduct an independent analysis of the best method available to an agency to accommodate its needs and we decline to do so here. See Rack Engineering Company, B-208615, supra.

In addition, we do not find that the customer survey favors any one offeror or that it confers any offeror an unfair advantage. We find nothing inherently unfair in the VA's bull's eye site selection technique and we agree with the VA that, in fact, it tends to reduce the advantage that a large firm might otherwise have if it was given unlimited discretion in selecting the sites. Also, the fact that IBM's equipment has been on the market for a longer period of time and, therefore, may prove more reliable in the survey does not show that the survey itself is biased. The government is not required to equalize competition among offerors, but only to ensure that it does not confer an unfair advantage. We find that the VA's customer survey meets this standard.

The protests are denied.



Acting Comptroller General
of the United States